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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

(Portland Division)

ELEMENT MATERIALS TECHNOLOGY
FOOD US LLC, a limited liability company, and
EXOVA, INC., a corporation,

Plaintiffs,

v.

NIDAL KAHL, an individual, and BIOGEN
LABORATORY DEVELOPMENTS, LLC, a
limited liability company,

Defendants.

Civil No. 3:19-cv-01491-SI

**JOINT NEUTRAL STATEMENT
OF THE CASE**

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Biogen Laboratory Developments, LLC

In accordance with Section V(D) of the Court’s Civil Trial Management Order dated November 18, 2022, Plaintiffs Element Materials Technology Food US LLC (“Element”) and Exova, Inc. (“Exova”) (collectively, “Plaintiffs”) and Defendants Nidal Kahl and Biogen Laboratory Developments, LLC (“Biogen”) (collectively, “Defendants”) submit the following Joint Neutral Statement of the Case.

STATEMENT OF THE CASE

To help you follow the evidence, I will give you a brief summary of the parties and their positions:

The Plaintiffs in this case are Element Materials Technology Food US LLC (who the parties refer to as “Element”) and Exova, Inc. (who the parties refer to as “Exova”). Plaintiffs owned and operated the Portland Food Lab, a food testing laboratory located in Portland, Oregon. The Defendants in this case are Nidal Kahl and Biogen Laboratory Developments, LLC (who the parties refer to as “Biogen”). Mr. Kahl is the owner and director of Biogen, a company that offers food testing, research, and consulting. Mr. Kahl was also the General Manager of the Portland Food Lab from 2005 to December 31, 2018.

Plaintiffs assert claims against Mr. Kahl for breach of the duty of loyalty; fraudulent misrepresentation; breach of contract; and breach of the implied covenant of good faith and fair dealing. Plaintiffs assert a claim against Biogen for intentional interference with economic relations. Plaintiffs’ claims are based on what they believe were improper actions by Mr. Kahl in connection with Biogen during his employment with Plaintiffs.

Mr. Kahl asserts counterclaims against Plaintiffs for breach of contract and penalty wages. Biogen asserts a counterclaim against Element for intentional interference with economic relations. Defendants’ claims are based on what they believe were improper actions by Element following the end of Mr. Kahl’s employment with Plaintiffs, as well as amounts owed to Mr. Kahl by Plaintiffs as of the end of his employment with Plaintiffs.

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Each party denies all claims made against them, and the parties have asserted various defenses to those claims as well.

Respectfully submitted,

DATED this 16th day of March, 2023.

ORRICK HERRINGTON & SUTCLIFFE LLP

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